



UNITED STATES MARINE CORPS
MARINE CORPS RECRUIT DEPOT/WESTERN RECRUITING REGION
SAN DIEGO, CALIFORNIA 92140

DepO 5211.3A
1A
21 JUN 1991

DEPOT ORDER 5211.3A

From: Commanding General
To: Distribution List

Subj: PRIVACY ACT OF 1974

Ref: (a) SECNAVINST 5211.5C (NOTAL)
(b) Federal Register (NOTAL)
(c) MCO P5211.2A (NOTAL)
(d) NAVCOMPTMAN, VOL III (NOTAL)

Encl: (1) Sample Letter Format for Responding to Request for Records
(2) Privacy Act Fee Schedule
(3) Rules of Conduct under the Privacy Act

1. Purpose. To provide guidance for compliance with the Privacy Act of 1974, in accordance with references (a) through (c).

2. Cancellation. DepO 5211.3.

3. Summary of Revision. This Order has been revised to update references and procedures for the Privacy Act System.

4. Background

a. The Privacy Act addresses the rights of the individual in relation to information about him which is maintained by the Government. The Privacy Act is applicable to all systems of records from which information is retrievable by name of the individual, an identifying number (social security), or another particular identity associated with the individual.

b. The Privacy Act is based on four principles:

(1) There should be no secret records kept on an individual.

(2) There should be no unauthorized use or disclosures of information contained in an individual's records.

(3) Individuals should have access to records about themselves, be permitted to review their records, make copies, and to file material to correct or dispute records they feel are inaccurate.

(4) Records should contain no unnecessary or inaccurate information about individuals.

c. Implementation of the Privacy Act falls into the following general areas:

(1) Notification. Notifying an individual, in response to their request, if a maintained system of records, named by the individual, contains a record pertaining to them.

(2) Verification. Verifying the identity of an individual who requests their record or information pertaining to them.

(3) Access. Granting access to an individual, upon their request, for their record or for information pertaining to them.

(4) Review. Reviewing a request from an individual concerning the amendment of any record or information pertaining to the individual, for making a determination on the request, and for appeal of an initial adverse determination.

(5) Disclosure. Disclosing personal information and for exempting systems of records from the requirements of the Privacy Act.

21 JUN 1991

d. Information on an individual that is releasable under the provisions of the Freedom of Information Act (FOIA) is addressed in subparagraph 5c(3)(c) below.

5. Depot Policy

a. Notification

(1) Chapter 4 of reference (c) provides specific procedures for requesting access and notification.

(2) Notification includes notifying the individual whether or not the system of records identified in the request does, in fact, contain a record pertaining to him/her.

(3) Once a formal request has been made in writing, by an individual, the organization receiving the request must expeditiously process that request either at that level or forward it to the organization that maintains the system containing the desired information. When it appears that the request involves access to information that has been specifically exempted from the provisions of the Privacy Act, the request must be forwarded to this Headquarters (Attn: Dep Adj). The Commanding General has been designated as denial authority for all Depot organizations. See paragraph 5g of this Order for detailed guidance on exemption cases.

b. Forms. Many forms are required to be utilized in implementing the Privacy Act. Based upon the intended use, these forms fall into three general categories:

(1) Forms that provide guidance to an individual requested to provide information into an existing system. These forms identify the system, its purpose, its routine use, and an impact statement relative to the individual's refusal or failure to provide the requested information. In some cases, the disclosure of certain information is voluntary, however, failure to provide the requested information will normally not be to the individual's benefit. Reference (c) provides information on NAVMC forms subject to the Privacy Act.

(2) Forms utilized by an individual to request access to personal information already contained in a system and that system's rules for access pertaining to the individual. It is important that all requests for access be in writing and signed by the requester. The standard Privacy Act Request and Response Form (OPNAV 5211/8), shown at Figure 4-2 of MCO P5211.2A, will be used by the individual to request access. The rules of access are outlined in Figure 4-1 of reference (c).

(3) Those nonstandard forms which are utilized on an infrequent basis to accomplish a specific requirement, such as an appeal by an individual of a denial of request access.

c. Verification

(1) Prior to being granted access to personal information, an individual will be required to provide verification of his identity. If requested in person, identification will be made from documents which an individual is likely to have readily available, such as a military ID card or driver's license. No disclosure will be made without written request for access.

(2) If requested by mail, verification of identity may be obtained by requiring the individual to provide certain minimum identifying data, such as date of birth, or some item of information in the record that only the concerned individual would be likely to know.

(3) Caution must be exercised regarding any requests received telephonically. No record contained in a system of records shall be disclosed, except with prior written consent of the individual to whom the record pertains, unless disclosure of the records falls within one of the following areas:

(a) Routine Use by Personnel of the USMC and DON. Disclosure may be made to those personnel who have a need for the record in the performance of their duties when this use is compatible with the purpose for which the record is maintained. This provision is based on the "need to know" concept. Definitive descriptions of "routine uses" of each particular system are contained in reference (b).

(b) Personnel of the DoD. Disclosure may be made, within the context of the definition of "routine uses" in paragraph 5c(3)(a) above, to personnel of the DoD.

(c) FOIA. Disclosure may be made of those records required to be released under the provisions of the FOIA. Some examples of releasable information are: name, grade, date of rank, salary, and duty station address. See Figures 12-1 and 12-2 of reference (c) for a more detailed listing.

d. Access. Upon written request and satisfactory verification, an individual may be granted access to records pursuant to the provisions of paragraph 7 of reference (a).

e. Disclosure Accounting

(1) Records of all requests for notification and access will be retained by the releasing organization. Accounting is simplified by retaining a copy of the standard Privacy Act Request and Response Form (OPNAV 5211/8).

(2) In accordance with reference (a), an accounting record must be maintained for five years or the life of the record, whichever is longer.

f. Acknowledgment

(1) Normally, requests for access to records should be acknowledged within 10 working days of receipt, and access provided within 30 working days. Enclosure (1) contains a sample format for responding to requests for records.

(2) In the event a copy of the individual's record is requested, duplication fees, as set forth in enclosure (2), will be charged. If such costs total less than \$30.00, or when copying is the only means whereby the record can be made available, such fees are waived (e.g., when a copy must be made in order to delete information contained in the record pertaining to another individual).

(3) When the collection of a fee is indicated, such fees will normally be made in advance of rendering the service. Fees collected will be deposited in accordance with the procedures contained in reference (d). The DD Form 1131 (Summary Collection Voucher) will be annotated "Privacy Act Receipts."

g. Denials under Exempt Provisions

(1) Portions of certain information systems maintained at this Command have been afforded exemptions under the provisions of the Privacy Act. Information concerning the name of each designated system, the provisions of the Privacy Act from which each system is to be exempted, and the reasons for each exemption of a record system are published in the reference (b). For ease of identity, see Figure 10-1 of reference (c).

(2) The Commanding General, as the denial authority for MCRD, will determine whether or not to exercise exemptions. The denial authority is authorized to exercise exemptions to requests for notification, access, and amendment only in cases where it has been determined to be in the best interest of the USMC and the DON to do so.

(3) If the denial authority concurs in a recommendation for exercise of an exemption, the individual requesting notification shall be promptly informed of the exemption and the reason for the exemption in writing. A copy of the denial letter shall be forwarded directly to CMC (MPI). The individual concerned may seek relief in the federal courts if his request for access is denied.

h. Request for Amendment

(1) It is necessary that organizations maintaining information systems ensure that the information contained therein be accurate, complete, and relevant for the purpose intended.

(2) In the event that an individual who has requested and been given access to his record finds inaccuracies in that record, a request for amendment may be submitted.

(3) Chapter 5 of reference (c) provides rules for amendment requests and guidance on processing requests for amendments.

21 JUN 1991

i. Collection of Personal Information from Individuals


(1) To the greatest extent practicable, any personal information collected should be from the individual concerned rather than from a third party or other source.

(2) Individuals who are asked to supply personal information about themselves for an authorized system of records must be advised of the authority which authorized the solicitation, purpose for which the information is used, a summary of the routine uses to be made of the information, whether the disclosure is mandatory or voluntary, and the possible consequences for failing to provide the information. Privacy Act statements have been prepared for most NAVMC forms utilized by the USMC. These statements provide the required warning to an individual relative to providing information on NAVMC forms.

(3) Chapter 6 of reference (c) provides guidance on the collection of information.

j. Rules of Conduct. Personnel involved in the administration of the Privacy Act and/or maintaining records of individuals are subject to certain rules of conduct. Enclosure (3) contains certain Rules of Conduct under the Privacy Act.

k. Training and Orientation. The CO's within MCRD are tasked to appoint a Privacy Act Coordinator for their units. They will be responsible for training and orienting those personnel whose duties involve maintenance, custody, and use of systems of records affected by the Privacy Act. Figure 14-1 of reference (c) provides a suggested training script for use in training. When directed by Depot Bulletin, they will also be responsible for compiling and submitting the annual Report of Privacy Act Activities to this Headquarters (Attn: Dep Adj).


R. R. WRIGHT
Chief of Staff

DISTRIBUTION: I

DepO 5211.3A
21 JUN 1991

SAMPLE LETTER FORMAT FOR RESPONDING TO REQUEST FOR RECORDS

Dear _____:

The record which you requested in your letter of _____ (date) has been located and is available for your access and copying between the hours of _____ and _____, Monday through Friday of each week in Room _____, Building _____, _____ (activity's address).

If you desire, you may be accompanied by one individual of your choice. If you do not desire to review your record in person, you may request that copies be made of your record by writing the (head, activity name, and address) and requesting that a copy of your record be provided. You will be charged only for the cost of copying your record in accordance with the fee schedule set forth in Title 32, Section 701, Code of Federal Regulations. This cost is presently \$_____ for each page. A copy of the complete records you requested will cost \$_____.

In order to protect your privacy, you will be required to show standard identification to gain access to your records, such as a military ID card, driver's license, or other similar identification.

ENCLOSURE (1)

21 JUN 1991PRIVACY ACT FEE SCHEDULE

	<u>Cost per page</u>
Office copy and computer printout	\$.10
Microform media	
Paper copy	.25
Microfiche frame	.25
Microfiche	.95

NOTE: Do not add in costs of wages of person
making copies.

ENCLOSURE (2)

RULES OF CONDUCT UNDER THE PRIVACY ACT

1. Maintaining Personal Records. It is unlawful to maintain systems of records about individuals without prior announcement in the Federal Register. Anyone who does so is subject to criminal penalties up to \$5,000. Even with such notice, care shall be taken to keep only such personal information as is necessary to do what the law and the President, by Executive Order, require. The information is to be used only for the purposes described in the Federal Register.
2. Disclosure. Information about an individual shall not be disclosed to any unauthorized individual. Anyone who intentionally makes an unauthorized disclosure may be fined up to \$5,000. Every member or employee of the USMC who maintain records about individuals has an obligation to do their part in protecting personal information from unauthorized disclosures. SECNAVINST 5211.5 describes when disclosures are authorized.
3. Individual Access. Every individual, with certain exceptions, has the right to look at any record the USMC keeps on him, to copy it, and to request to have it corrected if he considers it wrong. The individual attempting to exercise these rights shall be given courteous and considerate assistance.
4. Ensuring Accuracy. The USMC has an obligation to use only accurate, timely, relevant, and complete information when making decisions about individuals. All personnel involved in keeping records on individuals shall assist in the discharge of this obligation.

ENCLOSURE (3)

